

No. 9/1/87-6Lab/2564.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947); the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the Management of M/s (i) Secretary, Haryana State Electricity Board, Chandigarh. (ii) Executive Engineer, City Division, H. S. E. B., Gohana Road, Panipat.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 69 of 1985

SHRI PREM SINGH, C/O. BHARAT MAJDOOR SANGH, G.T. ROAD, PANIPAT AND THE MANAGEMENT OF THE MESSRS SECRETARY, HARYANA STATE ELECTRICITY BOARD, CHANDIGARH; (II) EXECUTIVE ENGINEER, CITY DIVISION, H. S. E. B., GOHANA ROAD, PANIPAT.

Present :—

Ch. Karan Singh, for workman.

Shri Narinder Paul Singh, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Prem Singh and Messrs H. S. E.B. etc. to this court. The terms of the reference are as under :—

“Whether termination of services of Shri Prem Singh is just and correct, if not, to what relief is he entitled ?”

Workman through his statement of claim alleged that he remained in the service of respondent-management more than 240 days. Respondent-management served notice, dated the 1st August, 1983 for terminating the services of the workman up to 1st September, 1983 and directed the workman to collect the retrenchment compensation on 5th September, 1983 from the respondent-management. It was further alleged that this notice was served by the respondent management with the intention to save itself from the provisions of section 25(F). In fact; respondent-management did not like to retain the workman in its job. Had the respondent management would have been fair; in those circumstance the services of workman must have been placed at the disposal of some other division. So it was prayed that the termination of services of the workman is violative to the general policy of the board. So workman is entitled to reinstatement with continuity in service and with full back wages.

Respondent management contested the dispute and contended that the reference is bad for non-joinder of necessary parties. Workman has no cause of action. termination of services of the workman is just and proper because there was a paucity of work and material with the respondent management. So, it issued one month notice before terminating the service of workman. Seniority list was displaced on the notice board. Workman was asked to collect the retrenchment compensation and other dues before the date of expiry of notice period. When the workman did not appear to collect the retrenchment compensation and other dues those were despatched to workman through money-orders at his home address which have been received by him. No junior of the workman was left un-retrenched nor any person has been joined in place of the workman. Seniority list of the daily wages workers is on division level basis and as such the daily wages worker cannot be transferred from one Division to another Division since the petitioner workman was daily wages worker as such there was no question of transfer of workman in some other Division.

On the pleadings of the parties the following issues were framed for the just decision of this dispute.

Issues :

- (1) Whether the impugned termination order is just if not its effect ? OPM
- (2) Whether the reference is bad for non-joinder of necessary parties ? OPM
- (3) Whether applicant has no cause of action, if so its effect ? OPM
- (4). Relief.

I have heard Shri Karan Singh for workman and Shri Narinder Paul Singh for respondent-management and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :

Issue No. 1 :

Regarding this issue I would like to hold on the basis of evidence of the parties that there was a paucity of work in the respondent-management due to that fact respondent issued one month notice before

termination of the workman and gave clear direction that before the date of the expiry of the notice the workman should collect retrenchment compensation and other dues from the office but the workman failed to do so. Thereafter the retrenchment compensation and other dues were despatched through money order which were received by the workman.

In these circumstances the termination of workman in question is just and legal.

The termination has been challenged by the workman on the sole ground that respondent should have transferred the workman in some other division but the answer of the respondent is that workman was working as a daily wager on daily wages, so Seniority of such daily wager is on division level basis and not in the H. S. E. B. as a whole. It was also urged that there was no policy of the board that if there is paucity of work and material in a particular Division and its daily wager are going to be retrenched in those circumstances they should be transferred to some other Division. It was the duty of the workman to have produce an copy of resolution of the board if an policy of transfer of such types i.e. from one Division to another Division existed in the respondent but the workman failed to produce any copy of resolution of the respondent in this context. In those circumstances the termination of the workman, in question, is just and legal. If the work existed or created in the Department in those circumstances the workman shall have a preferential right to re-employment against that job, so this issue is decided, in favour of, management against the workman.

Issue No. 2 :

The workman has said H. S. E. B. through its secretary when the Board itself should have been sued in its own name, so in those circumstances the demand notice and reference are bad for non-suing the Haryana State Electricity Board properly. This issue is also decided, in favour of, management against the workman.

Issue No. 3 :

The workman has no cause of action because the respondent-management has terminated services of workman in accordance with the provisions of section 25(F) of Industrial Disputes Act, 1947.

Issue No. 4 :

For the fore going reasons on the basis of my issuewise findings I hold that termination of workman is just and correct because his termination resulted because of paucity of work in the respondent if there will be new work in the Division the workman shall have an preferential right to re-employment against that job. I pass award regarding the dispute in hand accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated the 20th February, 1987.

Endst. No. 377, dated the 20th February, 1987.

Forwarded (Four copies), to the Financial Departments and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6Lab/2565.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the Management of M/S. (i) Secretary, Haryana State Electricity Board, Chandigarh, (ii) Executive Engineer, City Division, H.S.E.B. Gohana Road, Panipat.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT
AMBALA

Reference No. 59 of 1985

SHRI CHET RAM SHARMA, C/O. BHARAT MAJDOOR SINGH, G.T. ROAD, PANIPAT, AND
THE MANAGEMENT OF THE MESSERS SECRETARY, HARYANA STATE
ELECTRICITY BOARD, CHANDIGARH (ii) EXECUTIVE ENGINEER, CITY DIVISION,
H.S.E.B., GOHANA ROAD, PANIPAT.

Present :—

Chaudhary Karan Singh, for workman.

Shri Narinder Paul Singh, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Chet Ram Sharma and Messrs H.S.E.B. to this Court. The terms of the reference are as under :

"Whether termination of services of Shri Chet Ram Sharma is just and correct, if not, to what relief is he entitled ?"

Workman through his statement of claim alleged that he remained in the service of respondent-management more than 240 days. Respondent-management served notice dated 1st August, 1983 for terminating the services of the workman up to 1st September, 1983 and directed the workman to collect the retrenchment compensation on 9th May, 1983 from the respondent management. It is further alleged that this notice was served by the respondent-management with the intention to save itself from the provisions of section 25(F). In fact, respondent management did not like to retain the workman in its job. Had the respondent management would have been fair in those circumstances the services of workman must have been placed at the disposal of some other division. So, it was prayed that the termination of services of the workman is violative to the general policy of the board. So, workman is entitled to reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the reference is bad for non-joinder of necessary parties. Workman has no cause of action. Termination of services of the workman is just and proper because there was a paucity of work and material with the respondent management. So, it issued one month notice before terminating the services of workman. Seniority list was displaced on the notice board. Workman was asked to collect the retrenchment compensation and other dues before the date of expiry of notice period. When the workman did not appear to collect the retrenchment compensation and other dues those were despatched to workman through money-orders at his home address which have been received by him. No junior of the workman was left un-retrenched nor any person has been joined in place of the workman. Seniority list of the daily wages worker is on division level basis and as such the daily wages worker cannot be transferred from one division to another Division since the petitioner workman was daily wages worker as such there was no question of transfer of workman in some other division.

On the pleadings of the parties the following issues were framed for the just decision of this dispute :—

Issues :

- (1) Whether the impugned termination order is just, if not its effect ? OPM
- (2) Whether the reference is bad for non-joinder of necessary parties ? OPM
- (3) Whether applicant has no cause of action, if not its effect ? OPM
- (4) Relief.

I have heard Shri Karam Singh for workman and Shri Narinder Paul Singh for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

Issue No. 1 :

Regarding this issue I would like to hold on the basis of evidence of the parties that there was a paucity of work in the respondent-management due to that fact respondent issued one month notice before termination of the workman and gave clear direction that before the date of the expiry of the notice the workman should collect retrenchment compensation and other dues from the office but the workman failed to do so. Thereafter the retrenchment compensation and other dues were despatched through money orders which were received by the workman.

In these circumstances the termination of workman order in question is just and legal.

The termination has been challenged by the workman on the sole ground that respondent should have transferred the workman in some other division but the answer of the respondent is that workman was working as a daily wager on daily wages, so seniority of such daily wager is on division level basis and not in the H.S.E.B. as a whole. It was also urged that there was no policy of the board that if there is paucity of work and material in a particular Division and its daily wager are going to be retrenched in those circumstances they should be transferred to some other division. It was the duty of the workman to have produced a copy of resolution of the board if a policy of transfer of such type i.e. one Division to another

Division existed in the respondent but the workman failed to produce any copy of resolution of the respondent in this context. In those circumstances the termination of the workman,—*vide* the order in question is just and legal. After the work existed or created in the Department in those circumstances the workman shall have a preferential right to re-employment against that job, so this issue is decided, in favour of management against the workman.

Issue No. 2 :

The workman has sued H. S. E. B. through its secretary when the board itself should have been sued in its own name, so in those circumstances the demand notice and reference are bad for non-suing The Haryana State Electricity Board properly. This issue is also decided, in favour of, management against the workman.

Issue No. 3 :

The workman has no cause of action because the respondent-management has terminated services of workman in accordance with the provision of section 25(F) of Industrial Disputes Act, 1947.

Issue No. 4 :

For the foregoing reasons on the basis of my issue wise findings I hold that termination of workman is just and correct because his termination resulted because of paucity of work in the respondent if there will be new work in the Division the workman shall have an preferential right to re-employment against that job. I Pass award regarding the dispute in hand accordingly.

Dated the 20th February, 1987.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 378, dated the 20th February, 1987.

Forwarded (Four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6Lab./2568.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV, of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the Workman and the Management of M/s (i) Deputy Commissioner, Ambala, (ii) Adm'nistrator, Municipality, Shahzadpur, Ambala.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA.

Ref. No. 12 of 1986.

SHRI MOHINDER SINGH, SON OF SHRI CHANDER KAUR VILLAGE AND POST OF FICE DHURANA TEHSIL GOHANA DISTRICT SONEPAT AND THE MANAGEMENT OF THE DEPUTY COMMISSIONER, AMBALA II, ADMINISTRATOR, MUNICIPALITY, SHAHZADPUR AMBALA.

Present :—Shri Rajeshwar Nath, for workman.

Shri S. Bindra, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Mohinder Administrator, Municipality, Shahzadpur etc. to this Court. The terms of the reference are as under :—

"Whether termination of services of Shri Mohinder Singh, workman, is just and correct, if not, to what relief is he entitled?"

Workman through his demand notice alleged that he joined as Octroi Moharar in the service of respondent management on 10th November, 1982. His services were terminated on 14th June, 1985 in violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. He has prayed for his reinstatement with continuity in service and with full back wages.

Respondent management contended that Deputy Commissioner was the necessary party but he was not impleaded as a party to litigation. Workman was directly recruited. During the audit objection it was pointed out by the auditors that appointment of workman was direct not through Employment Exchange, so services of the workman were terminated. Since the workman was employed on daily wages basis. In terminating his services there was no necessity of issuing notice and making payment of retrenchment compensation, so neither notice was given before the termination nor retrenchment compensation was paid to him. So it was urged that termination of the workman was in order.

On the pleadings of the parties the following issues were framed :

Issues :

1. Whether termination of services of workman is unjust and illegal, if so its effect ?
2. Whether reference is bad for mis-joinder of necessary parties, if so, its effect ?
3. Relief.

I have heard Authorised Representative of the parties and have perused the oral and documentary evidence placed on the file. My issue wise findings are as under :

Issue No. 1 :

In support of this issue workman examined himself as AW-I he stated that he joined service of respondent management as Octroi Moharar on 0th November, 1982 and remained in the service of management up to 14th June, 1985. Thereafter, his services were terminated without any notice and without making payment of retrenchment compensation. In cross-examination he admitted that he was appointed directly as a daily wages, at present he is serving in the municipality, Jagadhri.

Respondent management examined Shri Bali Ram, Secretary, Shahzadpur who deposed that workman was appointed on daily wages against the vacant post. In cross-examination he admitted that at the time of dispensing with the services the workman was not issued any notice nor any retrenchment compensation was paid to him. Termination of the workman is based on objection raised by the audit party.

In view of the above evidence the following factors have become clear, firstly; that the workman joined as a daily wages. Secondly the workman remained in service of respondent management for more than 240 days. Thirdly : services of respondent were terminated without issuing any notice and without making payment of retrenchment compensation.

Since the workman remained in service of respondent management more than 240 days. So before terminating his services one month's notice was required if his services were to be terminated with immediate effect in those circumstances pay, in lieu of notice period must have been given to him. The workman must have been paid the retrenchment compensation and the appropriate authority Government or Haryana should have been informed but neither notice was issued nor retrenchment compensation was paid nor the Government or Haryana was informed about the termination of the workman, so there is violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. It has come on the file in the proceedings taken up before the Labour Officer, Ambala that appointment of workman was made directly without inviting his name either through Employment Exchange nor giving notice in any newspaper due to that fact when the audit party conducted audit of respondent management, it revealed that the appointment of the workman was irregular. On that very account the services of the workman were terminated. The person who recruited the workman in violation of the above provisions and rules laid down by the Government for the employment of such employees. The workman was made unnecessarily scapegoat of the illegal action of the person who recruited him out of way.

It is in the evidence that in place of the present workman some other person has been recruited. The workman at present is working in Municipal Committee, Jagadhri. There is no evidence on the file that during the period of termination and in between the day of joining the Municipal Committee, Jagadhri workman remained un-employed, present workman is not entitled to the wages for the intervening period, however the workman is entitled to pay, in lieu of notice period and retrenchment compensation. It is also ordered that from the day of termination and his re-employment in Municipal Committee, Jagadhri, that period be also considered as workman remained in the service of respondent.

In view of my above discussion I order that the period for which workman remained out of job shall be treated a period towards continuity of service of the workman and his whole service be accounted for towards his seniority, pay in lieu of, notice period and retrenchment compensation shall be paid to him. Workman is already in service, so the relief or reinstatement has become infructuous. So with these observations the present issue is decided, in favour of, workman against the management.

Issue No. 2 :

In the reference Deputy Commissioner, Ambala and Administrator, Municipality, Shahzadpur both have been made party to this Industrial Dispute, so the reference is not at all bad for non-joinder of necessary parties, in other words the reference is proper and correct in the eyes of law, so this issue is decided in favour of workman against the respondent management.

Issue No. 3 :

For the fore going reasons on the basis of my issuewise findings I hold that the workman shall be entitled to pay, in lieu of, notice period retrenchment compensation, benefit of continuity in service, without back wages and for the period during which he remained un-employed because there is no such claim for it ; with no orders as to costs. I pass award regarding the dispute in hand between the parties accordingly.

Dated 24th February, 1987.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 408, dated 24th February, 1987

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-Lab./2569.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the Management of (i) Deputy Commissioner, Ambala (ii) Administrator, Municipality, Shahzadpur (Ambala).

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Ref. No. 288 of 1985

SHRI NARINDER PAUL C/O SHRI RAJESHWAR NATH 2655, TIMBER MARKET, AMBALA CANTT AND THE MANAGEMENT OF THE DEPUTY COMMISSIONER, AMBALA (II) ADMINISTRATOR, MUNICIPALITY, SHAHZADPUR, (AMBALA)

Present.—

Shri Rajeshwar Nath for workman.

Shri S. Bindra for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Narinder Paul and Administrator, Municipality, Shahzadpur etc. to this Court. The terms of the reference are as under:—

“Whether termination of services of Shri Narinder Paul workman is just and correct, if not to what relief is he entitled?”

Workman through his demand notice alleged that he joined as Cctrci Mcharar in the service of respondent management on 29th December, 1982. His services were terminated on 11th June, 1985 in violation of provisions of section 25(F) of Industrial Disputes Act, 1947. He has prayed for his reinstatement with continuity in service and with full back wages.

Respondent management contended that Deputy Commissioner was the necessary party but he was not impleaded as a party to litigation. Workman was directly recruited. During the audit objection it was pointed out by the auditors that appointment of workman was direct not through Employment Exchange, so services of the workman were terminated. Since the workman was employed on daily wages basis, so

in terminating his services there was no necessity of issuing notice and making payment of retrenchment compensation, so neither notice was given before the termination, nor retrenchment compensation was paid to him. So it was urged that termination of the workman was in order.

On the pleadings of the parties the following issues were framed:

Issues:

1. Whether termination of services of workman is unjust and illegal, if so its effect ?
2. Whether reference is bad for mis-joinder of necessary parties, if so its effect?
3. Relief.

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issue wise findings are as under:

Issue No. 1 :

In support of this issue workman examined himself as AW-1, he stated that he joined service of respondent management as Octori Moharar on 29th December, 1982 and remained in the service of respondent management up to 11th Jan, 1985. Thereafter, his services were terminated without any notice and without making payment of retrenchment compensation. In cross-examination he admitted that he was appointed directly as a daily wager at present he is serving in the Municipality, Jagadhri.

Respondent management examined Shri Bali Ram, Secretary, Shahzadpur who deposed that workman was appointed on daily wages against the vacant post. In cross examination he admitted that at the time of dispensing with the services the workman was not issued any notice nor any retrenchment compensation was paid to him. Termination of the workman is based on objection raised by the audit party.

In view of the above evidence the following factors have become clear, firstly; that the workman joined as daily wager. Secondly; the workman remained in service of respondent management for more than 240 days. Thirdly; services of respondent were terminated without issuing any notice and without making payment of retrenchment compensation.

Since the workman remained in service of respondent management for more than 240 days. So before terminating his services one month's notice was required if his services were to be terminated with immediate effect in those circumstances pay, in lieu of, notice period must have been given to him. The workman must have been paid the retrenchment compensation and the appropriate authority Government of Haryana should have been informed but neither notice was issued nor retrenchment compensation was paid nor the Government of Haryana was informed about the termination of the workman, so there is violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. It has come on the file in the proceedings taken up before the Labour Officer Ambala that appointment of workman was made directly without inviting his name either through Employment Exchange nor giving notice in any new paper due to that fact when the audit party conducting audit of respondent management. It revealed that the appointment of the workman was irregular. On that very account the services of the workman were terminated. The person who recruited the workman in violation of the above provisions bad for non-joinder of necessary parties, in other words the reference is proper and correct in the eyes of law, so this issue is decided, in favour of, workman against the respondent management.

Issue No. 3 :

For the foregoing reasons on the basis of my issue wise findings I hold that the workman shall be entitled to pay, in lieu of, notice period, retrenchment compensation, benefit of continuity in service without back wages for the period during which he remained un-employed because there is no such claim for it; with no orders as to costs. I pass award regarding the dispute in hand between the parties accordingly.

The 24th February, 1987.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 409, the 24th February, 1987

Forwarded (Four Copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

KULWANT SINGH,
Secretary to Government, Haryana,
Labour and Employment Department.